

REMARKS

The issues outstanding in the Office Action mailed August 8, 2008, are the rejections under 35 U.S.C §§112, 102, 103 and double patenting, and the objection to claim 17. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

Rejections Under 35 U.S.C §112

Claims 1 - 9 and 11 - 17 have been rejected under 35 U.S.C §112, first paragraph. It is argued that, while the Specification enables enantiomers, mixtures thereof and racemates, the Specification does not enable solvates. While Applicants respectfully disagree with this allegation, for all of the reasons discussed at length in the prior reply, in order to expedite prosecution and for business reasons the term "solvates" has been eliminated from the claim. However, it is noted that, inasmuch as the claims are directed to compounds, they would, of course, literally include solvates of those compounds. Thus, the scope of the claims has not been changed either literally, or for purposes of the doctrine of equivalents, by this amendment. Withdrawal of the rejection is respectfully requested.

Claims 11 - 16 have been rejected under 35 U.S.C §112, first paragraph. Reconsideration of this rejection is also respectfully requested. It is argued, at page 4 of the Office Action, that although the Specification enables treatment of premenstrual syndrome, it does not enable treatment of all disorders associated with serotonin receptors. There appear to be two issues raised at page 4 of the Office Action. The first is that one claim recited "treatment and prevention." This has been clarified, and all claims recite "treatment or prophylaxis", see claim 11, line 2. Second, the Office Action appears to suggest that the claims are not enabled for treatment of any "disease mediated by the binding of the compounds of Formula I to 5HT receptors". Applicants respectfully disagree, inasmuch as various indications mediated by the 5HT receptors are known, and interfering with those receptors by administering compounds that bind thereto would clearly disrupt progression of such diseases. However, again in order to expedite prosecution, the claims have been amended so as to be directed to specific, enabled utilities such as premenstrual syndrome, sleep disorders, schizophrenia or depression.

Accordingly, withdrawal of the rejection under 35 U.S.C §112 is respectfully requested.

Finally, claim 17 has been rejected under 35 U.S.C §112, second paragraph. The typographical error in the claim has been corrected, and withdrawal of this rejection is also respectfully requested.

Rejections Under 35 U.S.C §102

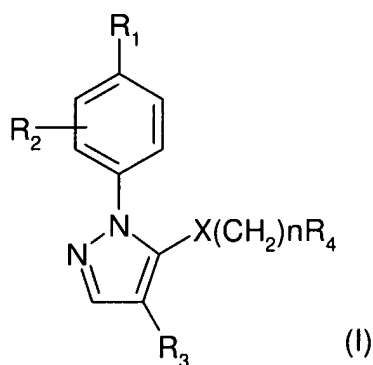
Claim 1 - 4, 7 and 14 - 15 have been rejected under 35 U.S.C §102(b) over Zhu.

Reconsideration of this rejection is respectfully requested.

It is respectfully submitted that there is a misinterpretation of the disclosure of Zhu and/or of the present claims. For example, it is argued at page 6 of the Office Action that, in assigning values to the variables of the present claims in order to cover an example of the reference, R³ is C(O)NH-4-chlorophenyl or methoxyphenyl. This is *not* a definition available for R³ in the claims, in which R³ is defined as (CH₂)_nHET or (CH₂)_nAr. Het is a saturated, unsaturated or aromatic mono- or bicyclic or heterocyclic or linear or branched organic radical containing one or more heteroatoms which is unsubstituted or substituted by A and/or Hal and Ar is a phenyl radical which is unsubstituted or mono or polysubstituted by A and/or Hal, OR⁵, OOCR⁵, COOR⁵, CON(R⁵)₂, CN, NO₂, NH₂, NHCOR⁵, CF₃ or SO₂CH₃. Thus, there is no possibility for Het or methylene-Het to be an amide-linked heterocyclic moiety. The attached graphical representation is provided to further clarify the issue for the Examiner. It is evident that the reference examples are not within the present scope. Accordingly, withdrawal of the anticipation rejection is respectfully requested.

Claims 1 - 4, 7, 14 and 15 have be rejected under 35 U.S.C §102(b) over Xiang.

Reconsideration of this rejection is also respectfully requested. Xiang discloses a compound of Formula I



Thus, the variable in the reference equivalent to presently claimed R^3 is $-X(CH_2)_nR_4$, in which X is either O or NR^5 . This variable is clearly not anticipatory of R^3 as in the present claims, in which R^3 is not attached to the heterocyclic ring via an oxygen atom or a nitrogen atom. Accordingly, withdrawal of this rejection is also respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 1 - 4, 14 - 15 are rejected under 35 U.S.C. §103 over Zhu. As explained above, Zhu fails to disclose compounds within the scope of the present claims. There is simply no motivation to modify the reference compounds in a manner so as to approximate those of the present claims, and withdrawal of this rejection is respectfully requested.

Claim Objections

A typographical error in claim 17 has been remedied, and withdrawal of the rejection is respectfully requested.

Double Patenting

The present Office Action makes double patenting rejections over copending applications Serial No. 10/552,064 and 10/552,065. However, a Terminal Disclaimer over these two applications was filed on May 22, 2008 in the present application. Accordingly, it is submitted that this rejection is moot, and withdrawal there is respectfully requested.

In conclusion, it is submitted that there are no outstanding issues which would bar patentability, and that all rejections of record should be withdrawn. Passage to Issue is respectfully requested. However, should the Examiner have any questions or comments, he or she is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Attorney Docket No.: MERCK-3075

Date: November 10, 2008